

POLICY OF TITLE INSURANCE ISSUED BY

# STEWART TITLE

## GUARANTY COMPANY

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B AND THE CONDITIONS AND STIPULATIONS, STEWART TITLE GUARANTY COMPANY, a Texas corporation, herein called the Company, insures, as of Date of Policy shown in Schedule A, against loss or damage, not exceeding the Amount of Insurance stated in Schedule A, sustained or incurred by the insured by reason of:

1. Title to the estate or interest described in Schedule A being vested other than as stated therein;
2. Any defect in or lien or encumbrance on the title;
3. Unmarketability of the title;
4. Lack of a right of access to and from the land.

The Company will also pay the costs, attorneys' fees and expenses incurred in defense of the title, as insured, but only to the extent provided in the Conditions and Stipulations.

IN WITNESS WHEREOF, Stewart Title Guaranty Company has caused this policy to be signed and sealed by its duly authorized officers as of the date of Policy shown in Schedule A.

**STEWART TITLE**  
GUARANTY COMPANY

*Stewart Morris Jr.*  
Chairman of the Board

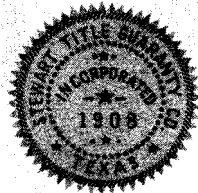
*Malcolm S. Morris*  
President

Countersigned:

Authorized Signatory

Stewart Title Company of W.A., Inc.  
Company Seattle, Washington

City, State



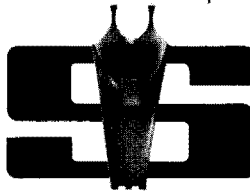
### EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
- (b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims or other matters:
  - (a) created, suffered, assumed or agreed to by the insured claimant;
  - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
  - (c) resulting in no loss or damage to the insured claimant;
  - (d) attaching or created subsequent to Date of Policy; or
  - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the estate or interest insured by this policy.
4. Any claim, which arises out of the transaction vesting in the Insured the estate or interest insured by this policy, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that is based on:
  - (a) the transaction creating the estate or interest insured by this policy being deemed a fraudulent conveyance or fraudulent transfer; or
  - (b) the transaction creating the estate or interest insured by this policy being deemed a preferential transfer except where the preferential transfer results from the failure:
    - (i) to timely record the instrument of transfer; or
    - (ii) of such recordation to impart notice to a purchaser for value or a judgment or lien creditor.

**NORTHGATE OFFICE**

Northgate Executive Building II  
9725 3rd Avenue NE  
Suite 204  
Seattle, Washington 98115-2024  
(206) 522-9490  
Fax. (206) 522-9526



*"A Tradition  
of Excellence"*

**STEWART TITLE COMPANY**  
OF WASHINGTON, INC.

**SEATTLE OFFICE**

1201 Third Avenue  
Suite 3800  
Seattle, Washington 98101-3055  
(206) 622-1040  
Fax. (206) 343-1358

**BELLEVUE OFFICE**

10801 Main Street  
Suite 115  
Bellevue, Washington 98004-6366  
(206) 646-4155  
Fax. (206) 646-4164

Swan Bay Holdings, Inc.  
P.O. Box 3757  
Seattle, Washington 98124

Order No.: 270849

Enclosed is your Policy for Title Insurance on the above-referenced transaction.

Thank you for the opportunity of serving you. We look forward to working with you again.

Julie Goodman  
Senior Title Officer  
Unit 8

Standard Coverage

STEWART TITLE GUARANTY COMPANY  
A.L.T.A. OWNER'S POLICY

SCHEDULE A

Order No.: 270849  
Policy Date: July 3, 1995  
at 2:27 p.m.

Policy No.: 9993-527305  
Policy Amount: \$1,200,000.00

1. Name of Insured:

SWAN BAY HOLDINGS, INC., a Washington corporation

2. The estate or interest in the land described herein and which is covered by this Policy is:

FEE SIMPLE

3. The estate or interest referred to herein is at date of Policy vested in:

SWAN BAY HOLDINGS, INC., a Washington corporation

4. The land referred to in this Policy is described as follows:

As on Schedule A, page 2, attached.

SCHEDULE A  
Page 2

The land referred to in this policy is situated in the County of King, State of Washington, and described as follows:

PARCEL A:

That portion of the abandoned bed of the Duwamish River in the northwest quarter of Section 29, Township 24 North, Range 4 East, W.M., in King County, Washington, lying southwesterly of the southwesterly margin of the Commercial Waterway District Number 1 right-of-way and lying easterly of the right-of-way and said right-of-way extended south as conveyed by Commercial Waterway District Number 1 to the State of Washington Highway Department, dated July 3, 1953, and recorded under Recording Number 4362487, and north of a line described in decree entered in King County Superior Court Cause No. 732439, which line begins on the westerly margin of the right-of-way of Commercial Waterway District Number 1 at a point which is north  $42^{\circ}24'31''$  west along said right-of-way 127.52 feet from its intersection with the north line of Block 1 of the Plat of Portland and Puget Sound Railway Addition, according to the plat thereof recorded in Volume 5 of Plats, page 74, in King County, Washington;  
thence south  $86^{\circ}42'16''$  west along said line 433.36 feet;  
thence south  $23^{\circ}37'09''$  west along said line 46.48 feet to the south line of Seaport Addition, according to the plat thereof recorded in Volume 19 of Plats, page 60, in King County, Washington, extended;  
thence south  $86^{\circ}02'59''$  west along said southerly line 150 feet, more or less, to the end of said line;  
EXCEPT any portion thereof, if any, which may lie within Lot 6, Block 5, of the Plat of said Seaport Addition.

PARCEL B:

Lots 7 and 8 in Block 1 of Portland and Puget Sound Railway Addition, according to the plat thereof recorded in Volume 5 of Plats, page 74, in King County, Washington.

END OF SCHEDULE A

Standard Coverage

STEWART TITLE GUARANTY COMPANY  
A.L.T.A. OWNER'S POLICY

SCHEDULE B

Policy No.: 9993-527305

This policy does not insure against loss or damage by reason of the following:

GENERAL EXCEPTIONS:

1. Rights or claims of parties in possession not shown by the public records.
2. Easements, or claims of easements, not shown by the public record.
3. Encroachments, overlaps, boundary line disputes, or other matters which would be disclosed by an accurate survey or inspection of the premises.
4. Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the public records, or liens under the Workmen's Compensation Act not shown by the public records.
5. Any title or rights asserted by anyone including but not limited to persons corporations, governments or other entities, to tide lands, or lands comprising the shores or bottoms of navigable rivers, lakes, bays, ocean or sound, or lands beyond the line of the harbor lines as established or changed by the United States Government.
6. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water.
7. Taxes or special assessments which are not shown as existing liens by the public records.
8. Any service, installation, connection, maintenance, capacity, or construction charges for sewer, water, electricity or garbage removal.
9. Indian tribal codes or regulations, Indian treaty or aboriginal rights, including, but not limited to, easements or equitable servitudes.

SPECIAL EXCEPTIONS:

As on Schedule B, attached.

(continued)

A.L.T.A. OWNER'S POLICY

SCHEDULE B

Page 2

SPECIAL EXCEPTIONS:

1. Terms and conditions of Stipulation and Agreement entered September 27, 1974 under King County Superior Court Cause Number 732439. Said Agreement established the southerly boundary line of said premises.

AFFECTS: Parcel A

2. Any question that may arise due to shifting and changing in course of the Duwamish River.

AFFECTS: Parcel A

3. Right of the state of Washington in and to that portion, if any, of the property herein described which lies below the line of ordinary high water of the Duwamish River.

AFFECTS: Parcel A

4. Any prohibition of or limitation of use, occupancy or improvement of the land resulting from the rights of the public or riparian owners to use any portion which is now or has been formerly covered by water.

AFFECTS: Parcel A

5. Paramount rights and easements in favor of the United States for commerce, navigation, fisheries and the production of power.

6. AGREEMENT AND THE TERMS AND CONDITIONS THEREOF:

BY AND BETWEEN: Seattle Ready Mix and Seattle Water Department

DATED: December 18, 1969  
RECORDED: December 29, 1969  
RECORDING NUMBER: 6603356  
REGARDING: No protest agreement

(continued)

SCHEDULE B  
Page 3

7. GENERAL AND SPECIAL TAXES AND CHARGES: FIRST HALF DELINQUENT MAY 1, IF UNPAID: SECOND HALF DELINQUENT NOVEMBER 1, IF UNPAID:

YEAR: 1995  
TAX ACCOUNT NUMBER: 292404-9090-07  
LEVY CODE: 0010

CURRENT ASSESSED VALUE: Land: \$809,000.00  
Improvements: \$320,000.00

AFFECTS: Parcel A

GENERAL TAXES:

AMOUNT BILLED: \$12,582.58  
AMOUNT PAID: \$ 6,291.29  
AMOUNT DUE: \$ 6,291.29

## SPECIAL DISTRICT:

AMOUNT BILLED: \$1.25  
AMOUNT PAID: \$ .63  
AMOUNT DUE: \$ .62

NOTE: IF THE TAXES AND CHARGES CANNOT BE DIVIDED EQUALLY BY 2, THE HIGHER AMOUNT MUST BE PAID FOR THE FIRST HALF PAYMENT.

8. SURFACE WATER MANAGEMENT SERVICE CHARGE, LEVIED PURSUANT TO KING COUNTY ORDINANCE NO. 7590 OR CITY OF SEATTLE ORDINANCE NO. 114155; FIRST HALF PAYMENT DELINQUENT MAY 1, IF UNPAID, SECOND HALF PAYMENT DELINQUENT NOVEMBER 1, IF UNPAID:

YEAR: 1995  
AMOUNT BILLED: \$1,298.76  
AMOUNT PAID: \$ 649.38  
AMOUNT DUE: \$ 649.38  
TAX ACCOUNT NUMBER: 292404-9090-07  
AFFECTS: Parcel A

NOTE: If the taxes cannot be divided equally by 2, the higher amount must be paid for the first half payment. The above charges are payable with general taxes. Payment should be made to the King County Director of the Office of Finance.

(continued)

SCHEDULE B  
Page 4

9. GENERAL AND SPECIAL TAXES AND CHARGES: FIRST HALF DELINQUENT MAY 1, IF UNPAID: SECOND HALF DELINQUENT NOVEMBER 1, IF UNPAID:

YEAR: 1995  
TAX ACCOUNT NUMBER: 687120-0035-08  
LEVY CODE: 0010  
  
CURRENT ASSESSED VALUE: Land: \$15,600.00  
Improvements: NONE  
  
AFFECTS: Parcel B

## GENERAL TAXES:

AMOUNT BILLED: \$173.86  
AMOUNT PAID: \$ 86.93  
AMOUNT DUE: \$ 86.93

## SPECIAL DISTRICT:

AMOUNT BILLED: \$1.25  
AMOUNT PAID: \$ .63  
AMOUNT DUE: \$ .62

NOTE: IF THE TAXES AND CHARGES CANNOT BE DIVIDED EQUALLY BY 2, THE HIGHER AMOUNT MUST BE PAID FOR THE FIRST HALF PAYMENT.

10. SURFACE WATER MANAGEMENT SERVICE CHARGE, LEVIED PURSUANT TO KING COUNTY ORDINANCE NO. 7590 OR CITY OF SEATTLE ORDINANCE NO. 114155; FIRST HALF PAYMENT DELINQUENT MAY 1, IF UNPAID, SECOND HALF PAYMENT DELINQUENT NOVEMBER 1, IF UNPAID:

YEAR: 1995  
AMOUNT BILLED: \$5.00  
AMOUNT PAID: \$2.50  
AMOUNT DUE: \$2.50  
TAX ACCOUNT NUMBER: 687120-0035-08  
AFFECTS: Parcel B

NOTE: If the taxes cannot be divided equally by 2, the higher amount must be paid for the first half payment. The above charges are payable with general taxes. Payment should be made to the King County Director of the Office of Finance.

(continued)



SCHEDULE B  
Page 5

11. DEED OF TRUST TO SECURE AN INDEBTEDNESS:

GRANTOR:	Swan Bay Holdings, Inc., an (sic) Washington corporation
TRUSTEE:	Stewart Title Company of Washington
BENEFICIARY:	National Bank of Alaska
AMOUNT:	\$900,000.00
DATED:	June 30, 1995
RECORDED:	July 3, 1995
RECORDING NUMBER:	9507031078

12. MEMORANDUM OF LEASE:

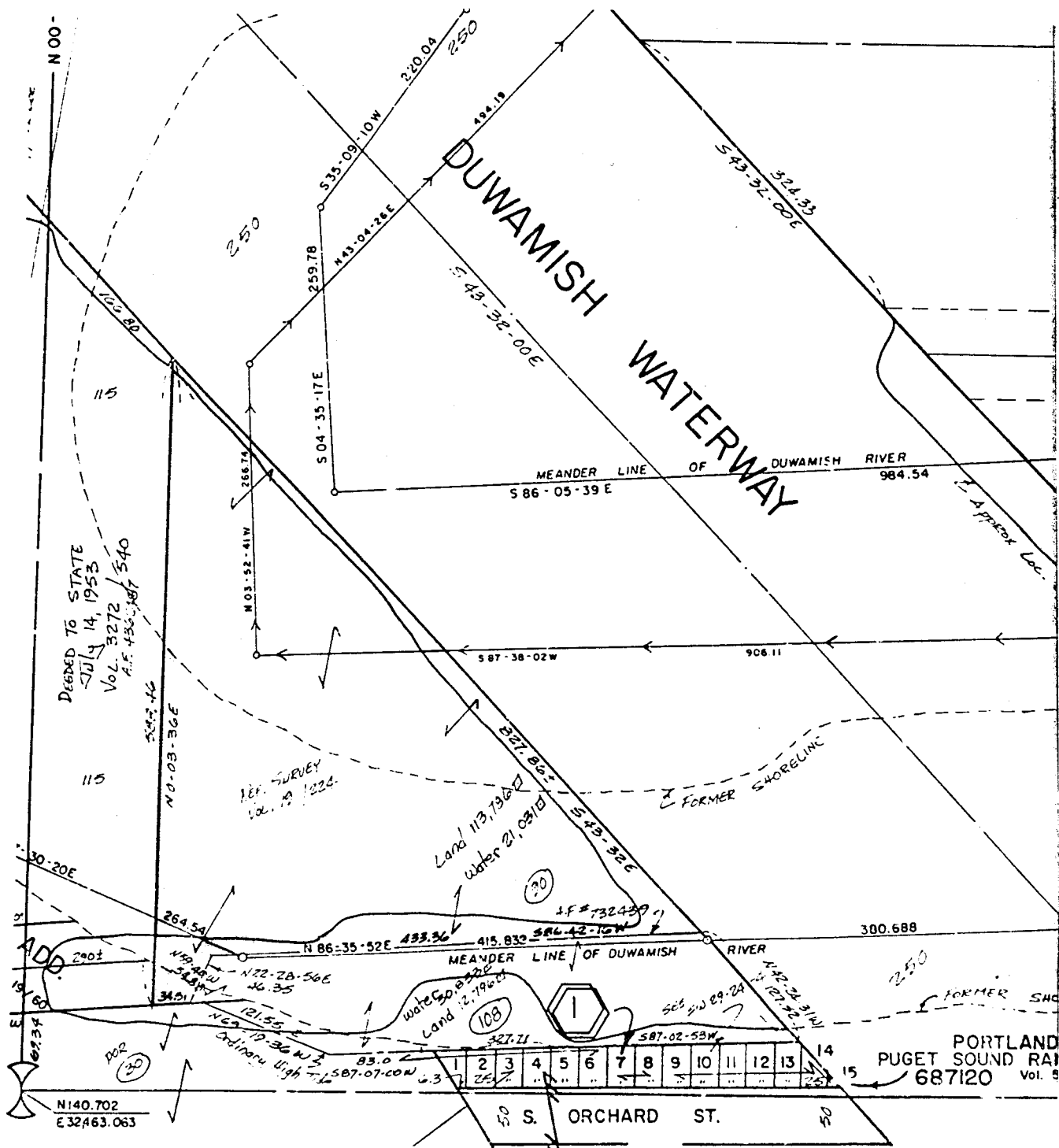
LESSOR:	Swan Bay Holdings, Inc.
LESSEE:	Douglas Management Company
DATED:	June 30, 1995
RECORDED:	July 3, 1995
RECORDING NUMBER:	9507031079

13. ASSIGNMENT OF LESSOR'S INTEREST IN LEASE AS SECURITY:

ASSIGNOR:	Swan Bay Holdings, Inc.
ASSIGNEE:	National Bank of Alaska, a National Banking Association
BY ASSIGNMENT RECORDED:	July 3, 1995
RECORDING NUMBER:	9507031080

As additional security for the mortgage/deed of trust recorded under  
Recording Number 9507031078.

END OF SCHEDULE B



"A Tradition  
of Excellence"

STEWART TITLE COMPANY OF WASHINGTON, INC.

Order No. 270849

IMPORTANT: This is not a Plat of Survey. It is furnished as a convenience to locate the land indicated hereon with reference to streets and other land. No liability is assumed by reason of reliance hereon.

NORTH



SOUTH

**CONDITIONS AND STIPULATIONS Continued**  
(continued and concluded from reverse side of Policy Face)

**7. DETERMINATION, EXTENT OF LIABILITY AND COINSURANCE.**

This policy is a contract of indemnity against actual monetary loss or damage sustained or incurred by the insured claimant who has suffered loss or damage by reason of matters insured against by this policy and only to the extent herein described.

(a) The liability of the Company under this policy shall not exceed the least of:

(i) the Amount of Insurance stated in Schedule A; or,  
(ii) the difference between the value of the insured estate or interest as insured and the value of the insured estate or interest subject to the defect, lien or encumbrance insured against by this policy.

(b) In the event the Amount of Insurance stated in Schedule A at the Date of Policy is less than 80 percent of the value of the insured estate or interest or the full consideration paid for the land, whichever is less, or if subsequent to the Date of Policy and improvement is erected on the land which increases the value of the insured estate or interest by at least 20 percent over the Amount of Insurance stated in Schedule A, then this Policy is subject to the following:

(i) where no subsequent improvement has been made, as to any partial loss, the Company shall only pay the loss pro rata in the proportion that the amount of insurance at Date of Policy bears to the total value of the insured estate or interest at Date of Policy; or

(ii) where a subsequent improvement has been made, as to any partial loss, the Company shall only pay the loss pro rata in the proportion that 120 percent of the Amount of Insurance stated in Schedule A bears to the sum of the Amount of Insurance stated in Schedule A and the amount expended for the improvement.

The provisions of this paragraph shall not apply to costs, attorneys' fees and expenses for which the Company is liable under this policy, and shall only apply to that portion of any loss which exceeds, in the aggregate, 10 percent of the Amount of Insurance stated in Schedule A.

(c) The Company will pay only those costs, attorney's fees and expenses incurred in accordance with Section 4 of these Conditions and Stipulations.

**8. APPORTIONMENT.**

If the land described in Schedule A consists of two or more parcels which are not used as a single site, and a loss is established affecting one or more of the parcels but not all, the loss shall be computed and settled on a pro rata basis as if the amount of insurance under this policy was divided pro rata as to the value on Date of Policy of each separate parcel to the whole, exclusive of any improvements made subsequent to Date of Policy, unless a liability or value has otherwise been agreed upon as to each parcel by the Company and the insured at the time of the issuance of this policy and shown by an express statement or by an endorsement attached to this policy.

**9. LIMITATION OF LIABILITY.**

(a) If the Company establishes the title, or removes the alleged defect, lien or encumbrance, or cures the lack of a right of access to or from the land, or cures the claim of unmarketability of title, all as insured, in a reasonably diligent manner by any method, including litigation and the completion of any appeals therefrom, it shall have fully performed its obligations with respect to that matter and shall not be liable for any loss or damage caused thereby.

(b) In the event of any litigation, including litigation by the Company or with the Company's consent, the Company shall have no liability for loss or damage until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals therefrom, adverse to the title as insured.

(c) The Company shall not be liable for loss or damage to any insured for liability voluntarily assumed by the insured in settling any claim or suit without the prior written consent of the Company.

**10. REDUCTION OF INSURANCE; REDUCTION OR TERMINATION OF LIABILITY.**

All payments under this policy, except payments made for costs, attorneys' fees and expenses, shall reduce the amount of the insurance pro tanto.

**11. LIABILITY NONCUMULATIVE.**

It is expressly understood that the amount of insurance under this policy shall be reduced by any amount the Company may pay under any policy insuring a mortgage to which exception is taken in Schedule B or to which the insured has agreed, assumed, or taken subject, or which is hereafter executed by an insured and which is a charge or lien on the estate or interest described or referred to in Schedule A, and the amount so paid shall be deemed a payment under this policy to the insured owner.

**12. PAYMENT OF LOSS.**

(a) No payment shall be made without producing this policy for endorsement of the payment unless the policy has been lost or destroyed, in which case proof of loss or destruction shall be furnished to the satisfaction of the Company.

(b) When liability and the extent of loss or damage has been definitely fixed in accordance with these Conditions and Stipulations, the loss or damage shall be payable within 30 days thereafter.

**13. SUBROGATION UPON PAYMENT OR SETTLEMENT.**

**(a) The Company's Right of Subrogation.**

Whenever the Company shall have settled and paid a claim under this policy, all right of subrogation shall vest in the Company unaffected by any act of the insured claimant.

The Company shall be subrogated to and be entitled to all rights and remedies which the insured claimant would have had against any person or property in respect to the claim had this policy not been issued. If requested by the Company, the insured claimant shall transfer to the Company all rights and remedies against any person or property necessary in order to perfect this right of subrogation. The insured claimant shall permit the Company to sue, compromise or settle in the name of the insured claimant and to use the name of the insured claimant in any transaction or litigation involving these rights or remedies.

If a payment on account of a claim does not fully cover the loss of the insured claimant, the Company shall be subrogated to these rights and remedies in the proportion which the Company's payment bears to the whole amount of the loss.

If loss should result from any act of the insured claimant, as stated above, that act shall not void this policy, but the Company, in that event, shall be required to pay only that part of any losses insured against by this policy which shall exceed the amount, if any, lost to the Company by reason of the impairment by the insured claimant of the Company's right of subrogation.

**(b) The Company's Rights Against Non-insured Obligors.**

The Company's right of subrogation against non-insured obligors shall exist and shall include, without limitation, the rights of the insured to indemnities, guaranties, other policies of insurance or bonds, notwithstanding any terms or conditions contained in those instruments which provide for subrogation rights by reason of this policy.

**14. ARBITRATION**

Unless prohibited by applicable law, either the Company or the insured may demand arbitration pursuant to the Title Insurance Arbitration Rules of the American Arbitration Association. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the insured arising out of or relating to this policy, any service of the Company in connection with its issuance or the breach of a policy provision or other obligation. All arbitrable matters, when the Amount of Insurance is \$1,000,000 or less shall be arbitrated at the option of either the Company or the insured. All arbitrable matters when the Amount of Insurance is in excess of \$1,000,000 shall be arbitrated only when agreed to by both the Company and the insured. Arbitration pursuant to this policy and under the Rules in effect on the date the demand for arbitration is made or, at the option of the insured, the Rules in effect at Date of Policy shall be binding upon the parties. The award may include attorneys' fees only if the laws of the state in which the land is located permit a court to award attorneys' fees to a prevailing party. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court having jurisdiction thereof.

The law of the situs of the land shall apply to an arbitration under the Title Insurance Arbitration Rules.

A copy of the Rules may be obtained from the Company upon request.

**15. LIABILITY LIMITED TO THIS POLICY; POLICY ENTIRE CONTRACT.**

(a) This policy together with all endorsements, if any, attached hereto by the Company is the entire policy and contract between the insured and the Company. In interpreting any provision of this policy, this policy shall be construed as a whole.

(b) Any claim of loss or damage, whether or not based on negligence, and which arises out of the status of the title to the estate or interest covered hereby or by any action asserting such claim, shall be restricted to this policy.

(c) No amendment of or endorsement to this policy can be made except by a writing endorsed hereon or attached hereto signed by either the President, a Vice President, the Secretary, an Assistant Secretary, or validating officer or authorized signatory of the Company.

**16. SEVERABILITY.**

In the event any provision of the policy is held invalid or unenforceable under applicable law, the policy shall be deemed not to include that provision and all other provisions shall remain in full force and effect.

**17. NOTICES, WHERE SENT.**

All notices required to be given the Company and any statement in writing required to be furnished the Company shall include the number of this policy and shall be addressed to the Company at P. O. Box 2029, Houston, Texas 77252-2029.